

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22/09/2003

Coram

The Honourable Mr. Justice P.K. MISRA

Writ Petition No.25391 of 2001

R. Ramakrishna .. Petitioner

-Vs-

Bharat Sanchar Nigam Limited,
rep. by its Accounts Officer (TR), C-III,
Chennai Telephones,
146, Greaves Road,
Chennai - 600 006. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorari as stated therein.

For petitioner: Mr. T. Mohan

For respondent: Mr. S. Krishnasamy

:O R D E R

Heard the learned counsel appearing for the parties. In this writ petition, the petitioner has prayed to call for the records relating to the demand Letter No. RD/P- 8230560/DEF/TR-III (C)/15 dated 26.11.2001 and quash the same.

2. The petitioner was the Managing Director of a Private Limited Company viz., Vibrant Investments and Properties Limited. Such company has been wound up under the orders passed by this Court in C.P. No.3 32 of 1999 dated 24.3.2000. It is stated that the Official Liquidator is now in-charge of such company.

3. The respondent has issued the impugned letter to the petitioner claiming that the amount, which was payable in respect of the telephones of the aforesaid Company, remain unpaid, and requesting the petitioner to pay the said amount threatening disconnection of the telephone of the petitioner on default.

4. Learned counsel for the petitioner has submitted that since the company was already wound up, the liability of the petitioner has to be worked out only in accordance with law under Section 426 and 427 of the

Companies Act and the petitioner does not have any personal liability for the dues of the company and personal telephone of the petitioner cannot be disconnected on account of non-payment of the liability of such company.

5. Learned counsel appearing for the respondent has submitted that since the liability is related to the period when the petitioner was in-charge as the Managing Director, such amount is liable to be paid by the petitioner.

6. Having heard the learned counsel appearing for the parties, I am unable to accept the contention raised by the learned counsel for the respondent. It is not disputed that the Company has already been wound up and the Official Liquidator is in-charge now. There is no doubt that the amount payable to the respondent has to be realised from the assets of the

company, for which the Official Liquidator has to be approached in accordance with the provisions contained in the Companies Act. For the liabilities of the Company, personal telephone of the petitioner cannot be disconnected.

7. For the aforesaid reasons, the impugned letter is quashed. However, it is made clear that it would be open to the respondent to take up appropriate steps in accordance with law for realisation of the amount due. The writ petition is allowed subject to the above observations. No costs.

Index: yes

Internet: yes

asvm

To
Accounts Officer (TR), C-III,
Bharat Sanchar Nigam Limited,
Chennai Telephones,
146, Greams Road,
Chennai - 600 006.

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